



BOARD OF APPEALS
Enid Starr, Co-Chair
Jesse Geller, Co-Chair
Robert De Vries

Town of Brookline

Massachusetts

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 080002

Petitioners, David and Kristen Jilek, applied to the Building Commissioner for permission to construct two parking spaces in the front yard, to construct a pergola structure in the front yard and to reconstruct stairs and other landscape structures per plans at 17 Risley Road. The application was denied and an appeal was taken to this Board.

On January 10, 2008, the Board met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals and fixed February 21, 2008 at 7:00 p.m. in the Main Library (2nd floor), as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the petitioner, to its attorney, to the owners of properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearings were published on January 31, 2008 and February 7, 2008 in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is as follows:

TOWN OF BROOKLINE
MASSACHUSETTS
BOARD OF APPEALS
NOTICE OF HEARING

Pursuant to M.G.L., C.39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

Petitioner: **JILEK D DAVID, JILEK KRISTEN H**

Location of Premises: **17 RISLEY RD BRKL**

Date of Hearing: **02/21/08**

Time of Hearing: **7:00 p.m.**

Place of Hearing: **Main Library, 2nd fl.**

A public hearing will be held for a variance and/or special permit from:

- 1) **5.43: Exceptions to Yard and Setback Regulations; Special Permit required.**
- 2) **5.50; Front Yard Requirements; Variance Required.**
- 3) **5.51; Projections into Front Yards; Variance Required.**
- 4) **5.53; Accessory Buildings in Front Yards; Variance Required.**
- 5) **For the Design of All Off-Street Parking Facilities
6.04.5. c. 1; Variance Required.
6.04.12; Special Permit Required.**
- 6) **8.02.2; Alteration or Extension; Special Permit Required.**

Of the Zoning By-Law to construct an addition per plans at **17 RISLEY RD BRKL.**

Said premises located in an S-7 district.

Hearings, once opened, may be continued by the Chair to a date and time certain. No further notice will be mailed to abutters or advertised in the TAB. Questions regarding whether a hearing has been continued, or the date and time of any hearing may be directed to the Zoning Administrator at 617-734-2134 or check meeting calendar at: <http://calendars.town.brookline.ma.us/MasterTownCalendar/?FormID=158>.

The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.

**Enid Starr
Jesse Geller
Robert De Vries**

On February 21, 2008 at the time and place specified in the notice a public hearing was held by this Board. Present were Chairperson Enid Starr, Jesse Geller and Mark Allen.

The applicants' proposal was presented through their attorney, Jacob Walters of Goldenberg & Walters at Seven Harvard Street in Brookline, MA. Mr. Walters stated that all of the relief could be granted by Special Permits. Mr. Walters stated that the present garage is not functional, is very small and extremely difficult to access given the slope of the driveway. Mr. Walters stated that the existing retaining walls were old and in need of repair, and the applicants' proposed design would allow for parking on the site, result in a driveway with a more gentle slope and provide for landscaping that would enhance the look of the property and the neighborhood. As for the specific relief required, Mr. Walters indicated that under Section 5.43 of the Zoning By-Law the Board may permit, in lieu of yard or setback requirements, the substitution of such other dimensional requirements as shall assure the same standard of amenity to neighboring properties as would have been provided by compliance with the By-Law regulations. In this case, Mr. Walters suggested that the counterbalancing amenities consisted of the extensive landscaping on the site. Mr. Walters added that the pergola structure proposed by the applicants violated the front yard setback requirement. Mr. Walters added that a majority of the members of the Planning Board felt that the pergola structure was very well designed and appropriate for the site. Mr. Walters indicated that another special permit would be needed under Section 6.04.12, allowing the Board to waive dimensional requirements for new parking spaces created to serve existing structures. The applicants are creating two parking spaces to serve the existing house, and Mr. Walters pointed out that the existing garage was being converted into habitable living space. Mr. Walters then stated that the final special permit required was pursuant to Section 8.02.2 Alteration or Extension. Mr. Walters closed by stating that the applicants have shown the proposed plans to all of their neighbors, none of

whom have any objections. Mr. Walters submitted letters of support from two of the abutters to their Risley Road property.

No other persons from the public spoke in favor or in opposition to the application.

The Board next heard from Lara Curtis of the Planning Department staff. She reported the following as contained in the Planning Board report: The Planning Board is not opposed to the applicants' proposal to convert the existing garage into habitable floor space and to construct two front yard parking spaces. The Planning Board felt that the applicants' proposal would improve the appearance of the landscaping and structures in front of the 17 Risley Road dwelling. The Planning Board acknowledged that due to the topography, ledge and slope of the lot, putting parking other than in the front yard would be difficult if not impossible. A majority of the Planning Board also supported the installation of the pergola structure over the parking spaces. The Board felt that the pergola structure provides a visual break from the expanse of the retaining wall and improves the appearance of the front yard parking area. Ms. Curtis concluded by stating that the Planning Board supports the proposal subject to the following conditions:

- (1) Prior to the issuance of a building permit, a final site plan, indicating the parking area dimensions and materials; location, materials and elevation of retaining walls; and landscape features, including a plant list, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
- (2) Prior to the issuance of a building permit final elevations shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
- (3) Prior to the issuance of a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals

decision, (a) a final site plan, stamped and signed by a registered architect, engineer or land surveyor;; (b) final elevations of the dwelling and retaining walls, stamped and signed by a registered architect; and (c) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

The Chair then called upon the Building Department to give its report. Walter White, acting Building Commissioner stated that the Building Department had no objection to the applicants' proposal.

Members of the Board then deliberated, and each member stated that in his/her opinion grounds for the requested Special Permits existed. The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that is desirable to grant a Special Permit for dimensional relief under Sections 5.43, 6.04.12 and 8.02.2 of the Zoning Bylaw.

The Board made the following findings pursuant to Section 9.05:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- e. The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

The Board then unanimously voted to approve Special Permits under Sections 5.43, 6.04.12 and 8.02.2 of the Zoning By-Law, subject to the following conditions:

1. Prior to the issuance of a building permit, a final site plan, indicating the parking area dimensions and materials; location, materials and elevation of retaining walls; and landscape features, including a plant list, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
2. Prior to the issuance of a building permit final elevations shall be submitted to the Assistant Director for Regulatory Planning for review and approval; and
3. Prior to the issuance of a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision, (a) a final site plan, stamped and signed by a registered architect, engineer or land surveyor, (b) final elevations of the dwelling and retaining walls, stamped and signed by a registered architect, and (c) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

RECEIVED
TOWN OF BROOKLINE
REGISTRARS OF VOTERS
MAR 27 10:15
Unanimous Decision
Of the Board of Appeals


Enid Starr, Chairperson

Filing Date: March 25, 2008

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals